United Nations A/C.3/61/L.36/Rev.1

General Assembly

Distr.: Limited
10 November 2006

Original: English

Sixty-first session
Third Committee
Agenda item 67 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Argentina, Armenia, Austria, Belgium, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Netherlands, Norway, Panama, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland , the former Yugoslav Republic of Macedonia and United Kingdom of Great Britain and Northern Ireland: revised draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004 and 60/158 of 16 December 2005, Commission on Human Rights resolutions 2003/68 of 25 April 2003,[1] 2004/87 of 21 April 2004[2] and 2005/80 of 21 April 2005[3] and other relevant resolutions of the General Assembly and the Commission on Human Rights,

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

[1] See *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23), chap. II, sect. I.

[2] Ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

[3] Ibid., *2005, Supplement No. 3* and corrigendum (E/2005/23 and Corr.1), chap. II, sect. A.

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Reiterating the important contribution of measures taken at all levels against terrorism, consistent with international law, in particular international human rights law and refugee and humanitarian law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,

Welcoming the establishment by the Commission on Human Rights in its resolution 2005/80 of the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

Recalling its resolution 48/141 of 20 December 1993 and, inter alia, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Welcoming the establishment of the Human Rights Council which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner,

Recognizing the importance of the United Nations Global Counter-Terrorism Strategy,[4] adopted by the General Assembly on 8 September 2006, and reaffirming its relevant clauses on the measures to ensure respect for human rights for all, international humanitarian law and the rule of law as the fundamental basis for the fight against terrorism,

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,[5]

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Reaffirming also that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Recognizing that the respect for all human rights, the respect for democracy and the respect for the rule of law are interrelated and mutually reinforcing,

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[4] See resolution 60/288.

[5] See sect. I, para. 17, of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

Noting the declarations, statements and recommendations of a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Recalling Human Rights Council decision 1/102 of 19 June 2006,[6]

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Deplores* the suffering caused by terrorism to the victims and their families, and expresses its profound solidarity with them;

3. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,[7] to respect certain rights as non-derogable in any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations;[8]

4. *Calls upon* States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

5. *Reaffirms* that counter-terrorism measures should be implemented in full consideration of minority rights and must not be discriminatory on the grounds of race, colour, sex, language, religion or social origin;

6. *Urges* States to fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

7. *Also urges* States, while countering terrorism, to ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,[9] of the International Covenant on Civil and Political Rights and of the Geneva Conventions of 1949,[10] in their respective fields of applicability;

8. *Opposes* any form of deprivation of liberty that amounts to placing a detained person outside the protection of the law, and urges States to respect the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in all places of detention in accordance with international law, including human rights law and international humanitarian law;

9. *Reaffirms* that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

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[6] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53* (A/61/53), part one, chap. II.B.

[7] See resolution 2200 (XXI), annex.

[8] See, for example, General Comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001.

[9] Resolution 217 A (III).

[10] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

10. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to give due consideration to the recommendations of the special procedures and mechanisms and the relevant comments and views of United Nations human rights treaty bodies;

11. *Takes note with interest* of the report of the Secretary-General submitted pursuant to General Assembly resolution 60/158;[11]

12. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and other relevant special procedures and mechanisms of the Commission, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

13. *Takes note with appreciation* of the report of the Special Rapporteur submitted pursuant to Commission on Human Rights resolution 2005/80;[12]

14. *Acknowledges with appreciation* the cooperation between the Special Rapporteur and all relevant procedures and mechanisms of the Human Rights Council as well as the United Nations human rights treaty bodies, and urges them to continue their cooperation, in accordance with their mandates, and to coordinate their efforts, where appropriate, in order to promote a consistent approach on this subject;

15. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals of the Special Rapporteur and providing the information requested;

16. *Welcomes* the work done by the United Nations High Commissioner for Human Rights to implement the mandate given to her in resolution 60/158, and requests the High Commissioner to continue her efforts in this regard;

17. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its sixty-second session;

18. *Decides* to consider at its sixty-second session the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

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[11] A/61/353.

[12] See A/60/370.